

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
SIERRA CLUB,)	
)	Civil Action No. 4:11-cv-00077-RWS
Plaintiff-Intervenor,)	
)	Judge Rodney W. Sippel
v.)	
)	
AMEREN MISSOURI,)	
)	
Defendant.)	

**JOINT PROPOSED STRUCTURE FOR
ORAL ARGUMENT ON REMEDY PHASE SUMMARY JUDGMENT MOTIONS**

Pursuant to the Court's order on December 21, 2018 (ECF No. 1031), as amended on January 16, 2019 (ECF No. 1034), Plaintiff United States of America, Plaintiff-Intervenor Sierra Club (collectively, "Plaintiffs"), and Defendant Ameren Missouri (collectively with Plaintiffs, the "Parties"), hereby respectfully propose the following order and time limits for oral argument on certain summary judgment motions in the remedy phase of this case. The Parties propose arguing the motions in the following order:

1. Ameren Missouri's Motion for Summary Judgment No. 1: Regarding Plaintiffs' Requests for Injunctive Relief (ECF Nos. 944, 945, 979, 1009)
2. Ameren Missouri's Motion for Partial Summary Judgment No. 2: Regarding Authority to Determine BACT (ECF Nos. 946, 947, 949, 981, 1010)
3. Plaintiffs' Motion for Partial Summary Judgment That Ameren Must Comply With New Source Review Requirements (ECF Nos. 954, 966, 1001, 1008)
4. Ameren Missouri's Motion for Partial Summary Judgment No. 3: Regarding Injunctive Relief at Labadie Energy Center (ECF Nos. 955-958, 988, 1012)

The Parties propose no more than fifteen (15) minutes of argument per side per motion—fifteen minutes for both Plaintiffs together, which they may choose to divide between them at their option, and fifteen minutes for Defendant. The moving side for each motion may reserve some portion of its fifteen minutes for rebuttal at its option.

The Parties note that the Court's order (ECF No. 1031) also lists *Daubert* motions (ECF Nos. 952, 960, and 963) for oral argument. However, none of the Parties has requested oral argument on the *Daubert* motions and, after conferring, the Parties remain in agreement that argument on *Daubert* motions is not necessary to the Court's resolution of those motions. Similarly, the Parties remain in agreement that no argument is necessary for resolution of Sierra Club's motion for partial summary judgment on standing (ECF No. 941). Based on discussion during the December 20, 2018 hearing, the Parties understand that the Court does not wish to hear argument on the *Daubert* and standing motions. (*See* Dec. 20, 2018 Hr'g Tr. at 5:5-6:6.) Accordingly, the Parties have not included the *Daubert* and standing motions in the proposed argument schedule above.

Respectfully submitted,

/s/ Matthew B. Mock

Matthew B. Mock (admitted *pro hac vice*)
SCHIFF HARDIN LLP
One Market, Spear Street Tower Suite 3100
San Francisco, California 94105
Tel: (415) 901-8700
Fax: (415) 901-8701
mmock@schiffhardin.com

Renee Cipriano
David C. Scott
Joshua R. More
Mir Y. Ali
Molly L. Wiltshire
Daniel J. Schufreider

BRUCE GELBER

Deputy Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice

/s/ James W. Beers, Jr.

James W. Beers, Jr.
Anna Cross
Jason A. Dunn
Elias L. Quinn
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. DEPARTMENT OF JUSTICE
P.O. Box 7611
Washington, DC 20044-7611

(All admitted *pro hac vice*)
SCHIFF HARDIN LLP
233 South Wacker Drive, Suite 7100
Chicago, Illinois 60606
Tel: (312) 258-5500
Fax: (312) 258-5600

Telephone: (202) 202-0455
Facsimile: (202) 616-6584
E-mail: james.beers@usdoj.gov
anna.cross@usdoj.gov
jason.dunn@usdoj.gov
elias.quinn@usdoj.gov

Ronald S. Safer (*pro hac vice*)
RILEY SAFER HOLMES & CANCELLO LLP
70 W. Madison, Suite 2900
Chicago, Illinois 60602
Tel: (312) 471-8700
Fax: (312) 471-8701

ANDREW J. LAY #39937MO
Assistant United States Attorney
United States Attorney's Office
Eastern District of Missouri
Thomas Eagleton U.S. Courthouse
111 South 10th Street, 20th Floor
St. Louis, Missouri 63102
Telephone: (314) 539-2200
Facsimile: (314) 539-2309
E-mail: Andrew.Lay@usdoj.gov

Counsel for Plaintiff United States of America

John F. Cowling
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard, Suite 1800
St. Louis, Missouri 63105
Tel: (314) 621-5070
Fax: (314) 621-5065

/s/ Benjamin Blustein

Counsel for Defendant Ameren Missouri

Benjamin Blustein (*pro hac vice*)
David Baltmanis (*pro hac vice*)
MINER, BARNHILL & GALLAND, P.C.
325 N. LaSalle, Suite 350
Chicago, IL 60654
Tel: (312) 751-1170
Fax: (312) 751-0438
bblustein@lawmbg.com
dbaltmanis@lawmbg.com

Sunil Bector (*pro hac vice*)
SIERRA CLUB
2101 Webster, Suite 1300
Oakland CA 94612
Tel: (415) 977-5759
Fax: (510) 208-3140
sunil.bector@sierraclub.org

Counsel for Intervenor-Plaintiff Sierra Club

CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2019, I caused the foregoing document to be electronically filed with the Clerk of Court using the CM/ECF system, which will cause an electronic copy to be served on all counsel of record.

/s/ Matthew B. Mock